



# ITU Regional Workshop for Europe and CIS on Cybersecurity and Child Online Protection

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## Regulated Self-Regulation An Approach for Shared Responsibilities

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# Agenda

- Introduction saferinternet.de
- German State Media Authorities: Remits and Organisational Structure
- Protection of Minors in the Media: The German Approach
- The Legal Background
- In Practice: Control Procedure & Assessment
- Case Studies
- Conclusion and Prospects

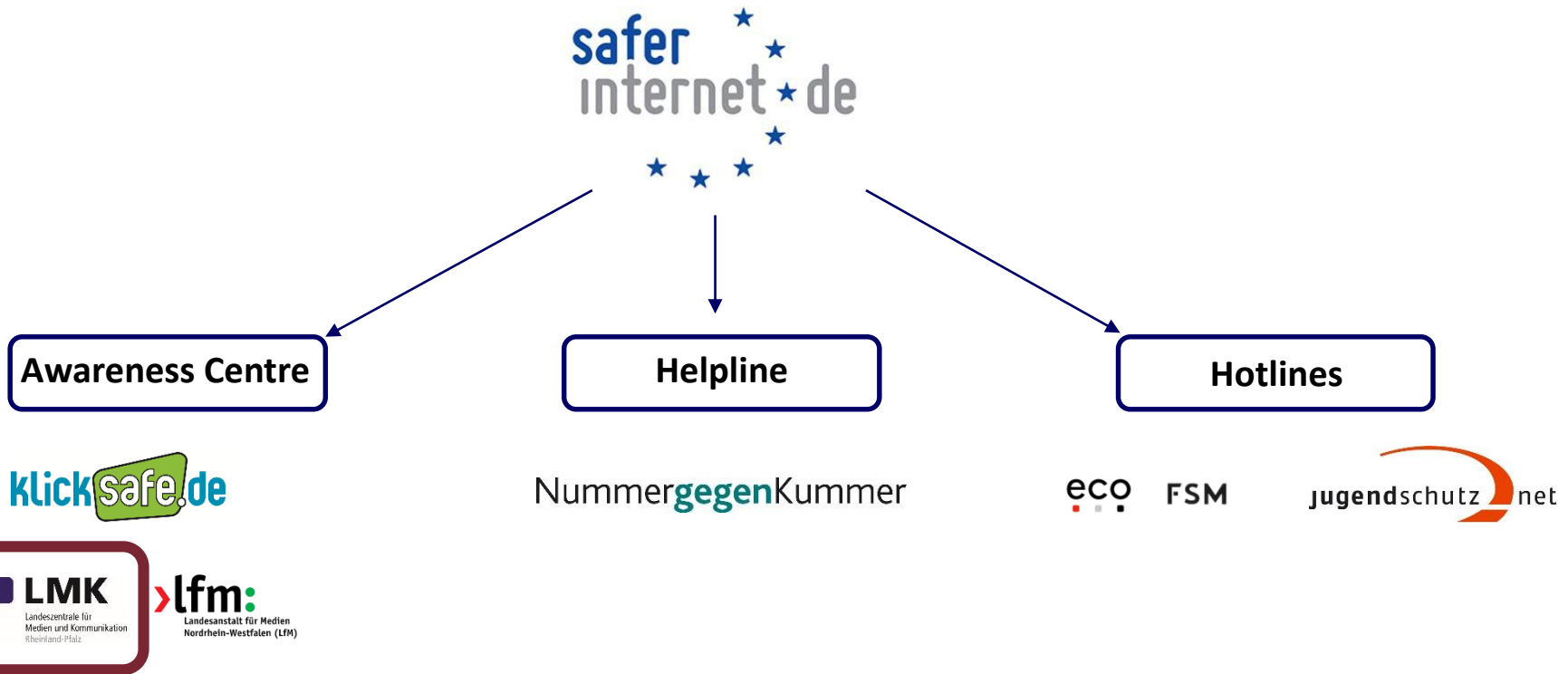
**Saferinternet.de**



# Saferinternet.de

Safer Internet Centre Germany

- Part of Connecting Europe Facility (CEF), Telecom programme GD Connect, European Commission



# **German State Media Authorities: Remits and Organisational Structure**

# State Media Authorities in Germany

## Remits & Structure

- After WWII: Reorganisation German media system (dual broadcasting system)
  - Broadcasting lies within the competence of the federal States
  - To ensure independence from government!
- 14 State Media Authorities founded in the mid 1980s
- Original remit: Licensing, monitoring, structuring, and promoting commercial broadcasting in Germany
- 2003: Extension of field of activity to controlling telemedia
- During the last years: Promotion of media literacy as key responsibility of LMK

# State Media Authorities in Germany

## Overview



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## State Media Authorities in Germany

“die medienanstalten”

- Joint management office of media authorities (“die medienanstalten”) located in Berlin
- Remit: Coordination of day-to-day business of decision-taking councils and commissions of state media authorities



# State Media Authorities in Germany

“die medienanstalten”

- Cooperation conducted in **decision-taking councils** and **commissions** coordinating and aligning matters on a national level:
  - Commission on Licensing and Supervision (ZAK)
  - Conference of Chairpersons of the Decision Taking Councils (GVK)
  - Commission on Concentration in the Media (KEK)
  - Commission for the Protection of Minors in the Media (KJM)

## State Media Authorities in Germany

“die medienanstalten”

- Commercial radio and commercial television broadcasters have to fulfil the requirements on content as specified in the Interstate Treaty on Broadcasting and Telemedia
- Telemedia: Media authorities are responsible for ensuring that specific requirements are met, for instance, regarding the protection of minors

# Protection of Minors in the Media: The German Approach

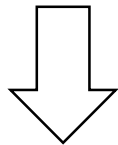
## Division of Competences

Online & Offline Media

For **films** and **games**

(**data media/physical media**):

Protection of Young Persons Act  
(JuSchG)

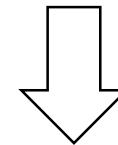


**German federation**

**Federal Department For Media Harmful  
to Young People**

For **telemedia** and **broadcasting**:

Interstate Treaty on the Protection of  
Minors in the Media (JMStV)

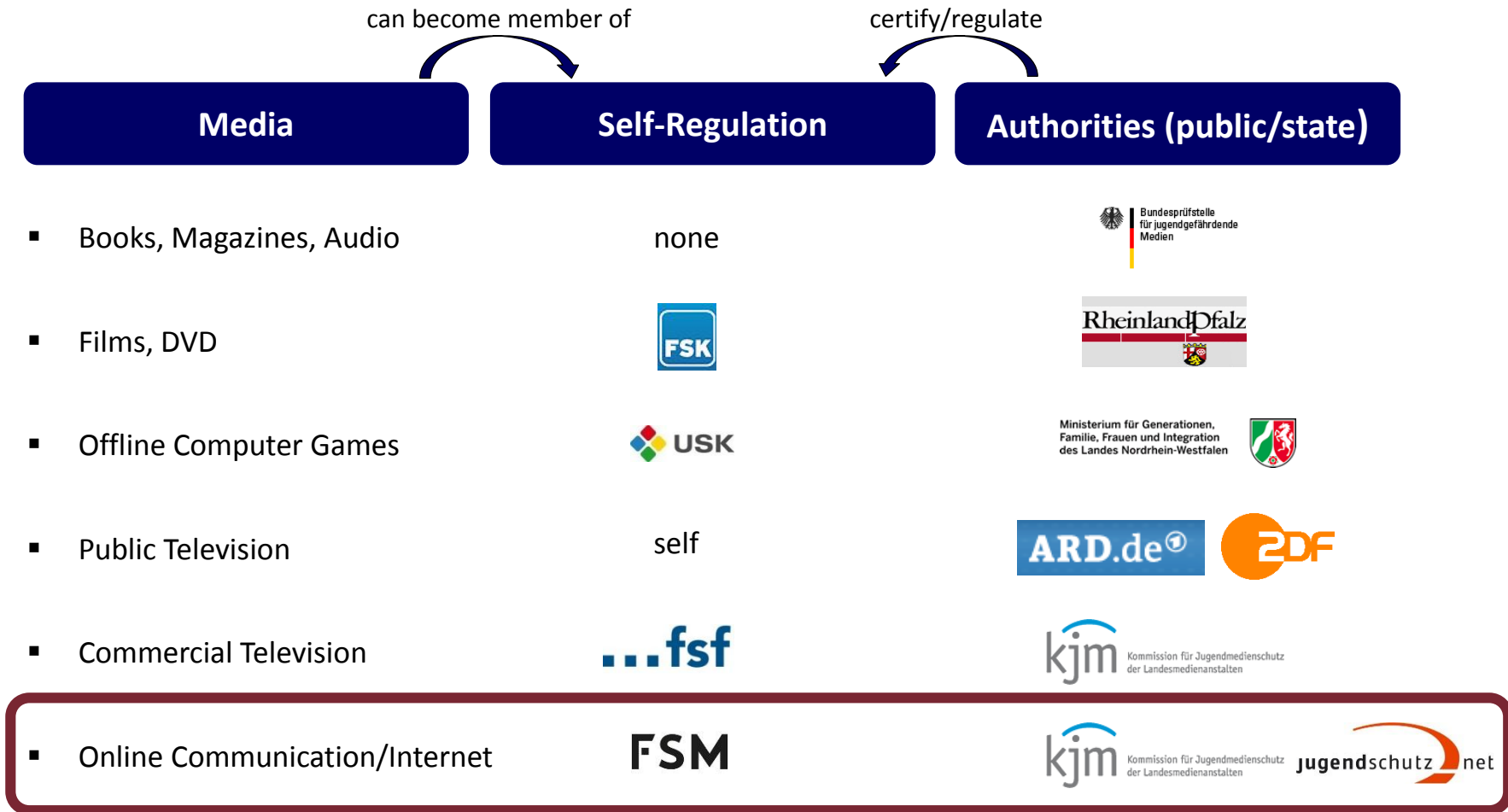


**States/Länder**

**State Media Authorities**

# System of “Regulated Self-Regulation”

## General Overview



# Regulatory Bodies

KJM & Jugendschutz.net

- Commission for the Protection of Minors (KJM)

- Acts on behalf of the State Media Authorities
- Decides on violation/non-violation of JMStV and on sanctions
- Acknowledges Voluntary Self-Monitoring organisations
- Certifies systems for age verification, definition for closed user groups
- Certifies technical solutions protection for minors online



- Jugendschutz.net (Protection if minors.net)

- Organizationally bound to KJM
- Control of Internet content and report receiving mechanism (hotline)
- Quick removal of offences and transmission to supervisory bodies and law enforcement
- Training and consulting (workshops)



## Results & Achievements (2016)

KJM & Jugendschutz.net



- **120,000** online offerings were checked by jugendschutz.net
  
- **6,130** problematic issues were found, 94 cases were forwarded to the KJM
  - 38% political extremism
  - 21% pornographic content
  - 16% content harmful to young people
  - 13% depictions of sexual exploitation
  - 6% impairing content

## Results & Achievements (2016)

KJM & Jugendschutz.net

- More than **7,000** cases were sent via online complaints mechanisms
- In **66%** of the cases illegal content was quickly removed from the Internet by the intervention of jugendschutz.net
- In **9 out of 10** cases depictions of sexual exploitation could be quickly removed (Germany 100%, other countries 81%)





## Voluntary Self-Regulation Organisation

Association of Voluntary Self-Regulating Multimedia Providers (FSM)

- Industry association of content/host/access providers (e.g. Telekom/Microsoft)
- Acknowledged as voluntary self-regulatory body by KJM
- In charge of assessment of online content and awarding rulings as to the conditions for putting it online (discretionary powers included: only members)
- Expert commission
- General advice on all questions regarding protection of minors

 FSM

# Results of Self-Regulation

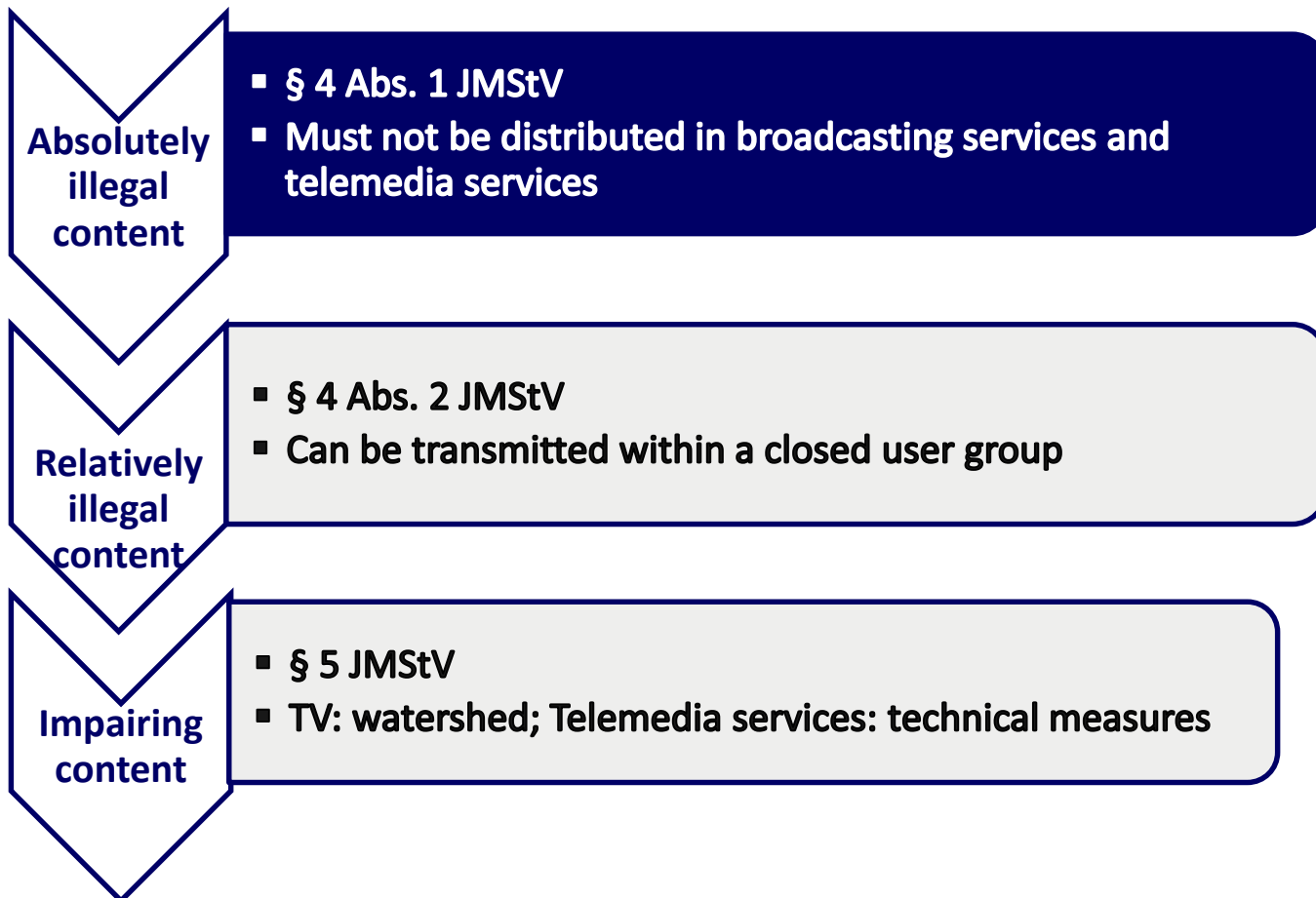
## Overview

- Self-Monitoring of Search Engine Providers (e.g., Google, Yahoo)
  - This kind of cooperation is unique throughout the world!
- Self-Monitoring of Mobile Phone Providers (e.g., T-Mobile, Vodafone)
- Self-Commitment of Mobile Phone Providers
- Self-Commitment of Chat Providers (e.g., codex)
- Network with climate of cooperative dialogue: Advisory Board Saferinternet.de
- Network on contract level: klicksafe (LMK & Ifm), NummergegenKummer, Jugendschutz.net, internet-beschwerdestelle.de (ECO & FSM)

**The Legal Background:**

**The Interstate Treaty on the Protection of  
Human Dignity and the Protection of Minors  
in Broadcasting and Telemedia**

# The Interstate Treaty on The Protection of Minors in the Media (JMStV)



# The Interstate Treaty on The Protection of Minors in the Media (JMStV)

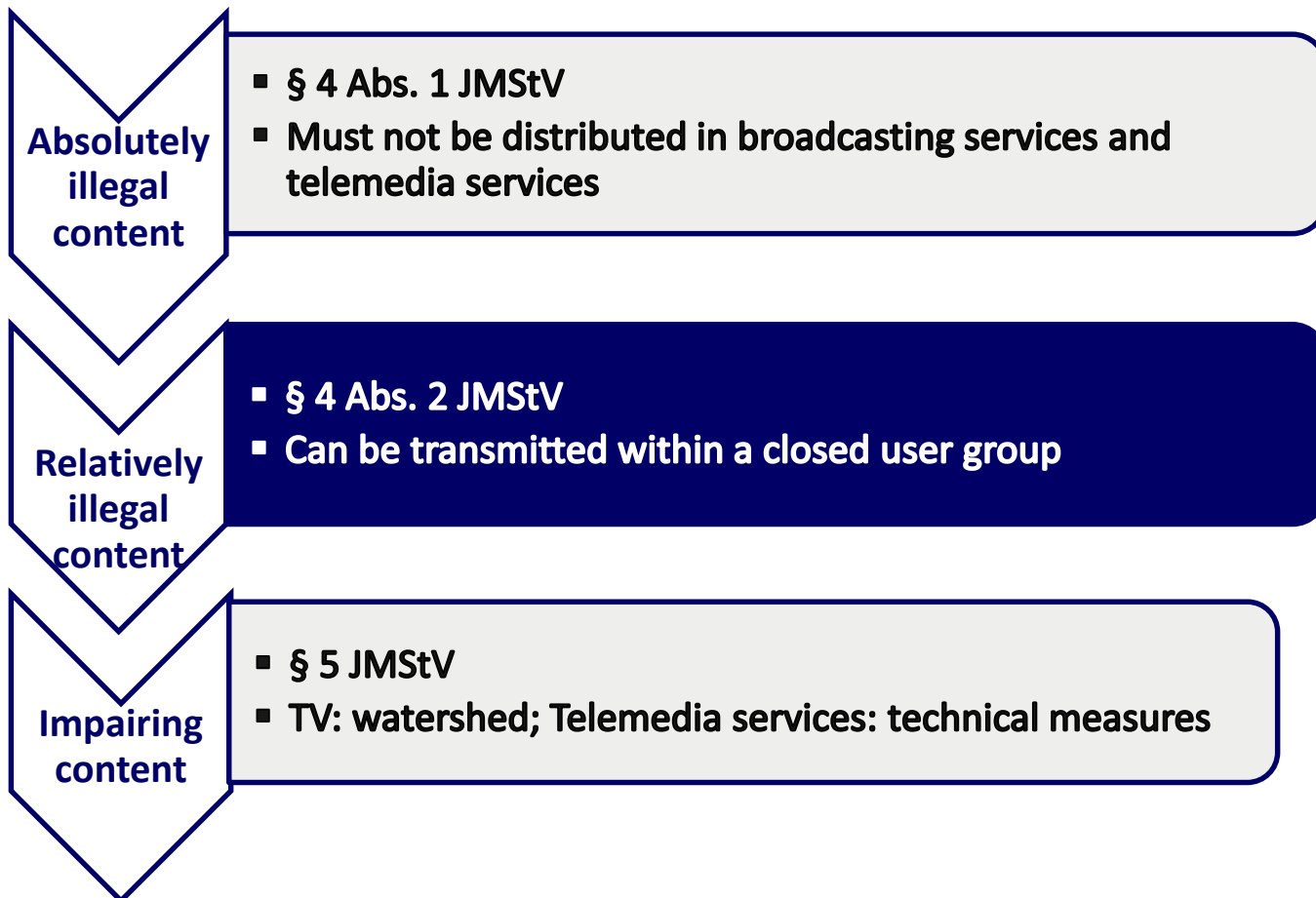
- Content being **absolutely illegal** (Art. 4)
  - Using insignia of organisations which are prohibited under the German Constitution,
  - Inciting to racial **hatred**
  - **Denying or playing down** acts committed under the National Socialist regime,
  - Presenting cruel or otherwise inhuman acts of **violence** against a person
  - Glorifying **war**,
  - Presenting children or adolescents in **unnatural blatantly sexual poses** (so-called posing, also applies to virtual presentations),
  - Violating human **dignity**, especially by presenting persons who are dying or exposed to serious physical or mental suffering.
  - Child **pornography**, violent pornography, pornography involving animals (also applies to virtual presentations)
  - Certain content being **indexed** by the Federal Review Board for Media Harmful to Young People (parts B and D of the list)

## Example: Absolutely Illegal Content

- Terrorist propaganda, beheadings, torture, extreme depictions of violence



# The Interstate Treaty on The Protection of Minors in the Media (JMStV)

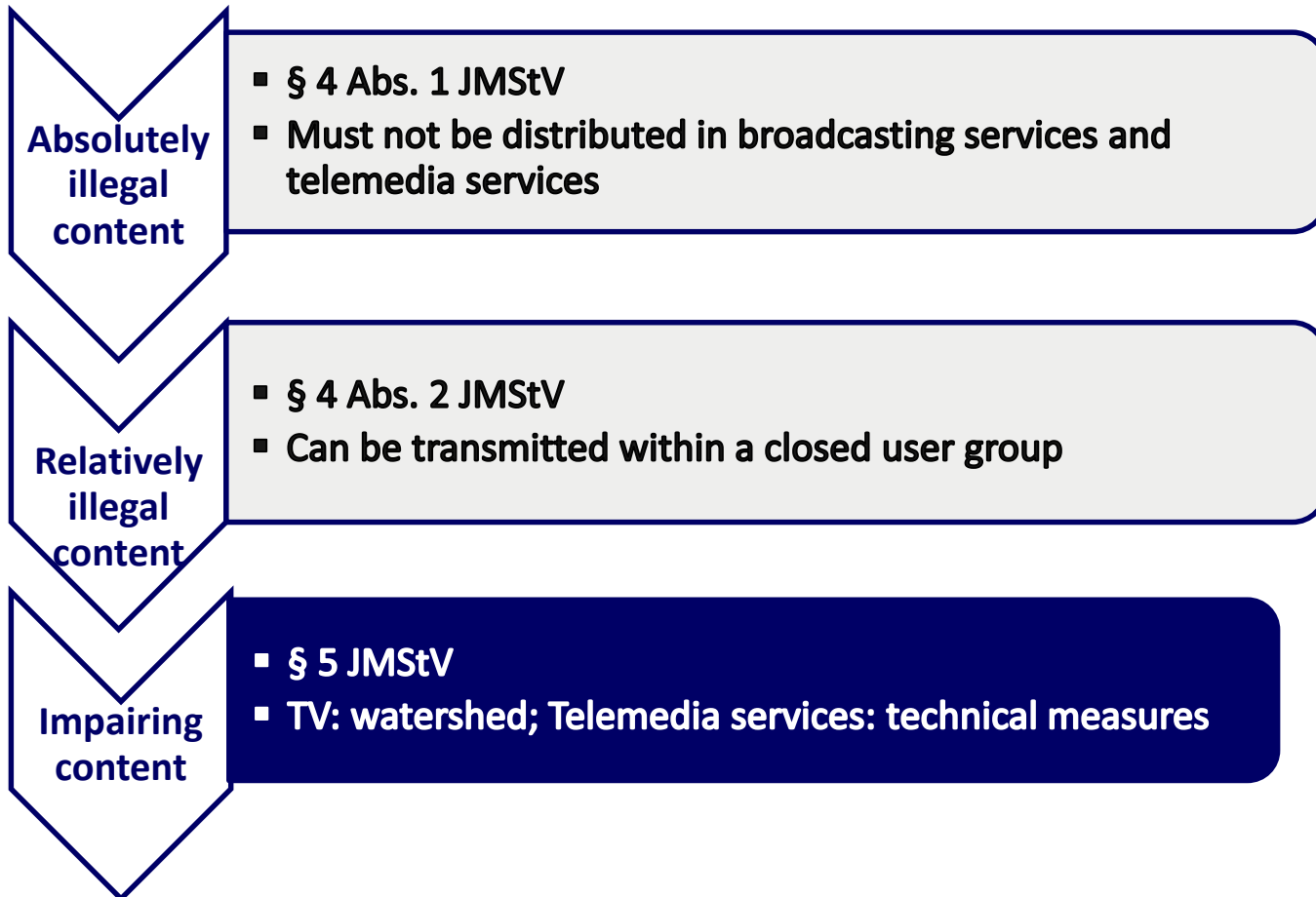


## The Interstate Treaty on The Protection of Minors in the Media (JMStV)

- Content being **relatively illegal** (Art 4 (2)) can be transmitted in telemedia services if the provider has ensured that such content is accessible for adult persons only (closed user group)
  - Pornographic content
  - Certain indexed content (parts A and C of the list)
  - Content classified as being seriously impairing



# The Interstate Treaty on The Protection of Minors in the Media (JMStV)



# The Interstate Treaty on The Protection of Minors in the Media (JMStV)

- Content **impairing development** (Art. 5)
  - Legal definition: Content which is suited to impair the development of children or adolescents into **self-responsible** and **socially competent** personalities
  - Providers shall ensure that children or adolescents of the relevant age groups do not normally see or hear such content (online: by technical measures/ TV: **watershed**)
- Watersheds in Germany
  - For some content rated **12 and up**, the watershed is between **20:00 and 06:00**
  - for content suitable for ages **16 and older** between **22:00 and 06:00**
  - for content suitable for adults (18 and older) between 23:00 and 06:00



# In Practice:

## Control Procedure & Assessment

# Case Studies

## Case Study 1

### Super Nanny

- Scripted reality show (with real persons)
- Broadcast by Commercial broadcaster RTL
- Super Nanny visits parents having problems in day-to-day education of their children



## Case Study 1

### Super Nanny

- **Human dignity** takes priority: It ranks first both the Declaration of Human Rights of the United Nations and in the German Constitution. **It is also a key objective of the Interstate Treaty**
- No human being may be treated like an object, be stripped of his or her rights, be exposed to inhumane and humiliating sanctions or treatments, be tortured or destroyed
- Due to its demands as an absolute value, the guarantee of human dignity requires **careful assessment and explanation**

# Case Study 1

## Super Nanny

### ▪ **Assessment by KJM**

- Show violates human dignity
- Children were physically and psychologically abused while being constantly beaten and shouted at in front of the camera
- Some of these scenes were repeatedly shown both in the trailer and during the show
- Show reduced children to mere objects for the voyeuristic satisfaction of the viewer, in showing their suffering, they were commercialized in an inadmissible way
- There was no justifiable public interest in such an intensive depiction of mistreatment

## Case Study 2

Bild.de Coverage on Syrian War

Bild

HIER INFORMIEREN

WETTER   
 20°C   
 BREMEN

ALLE NEWS

KONTAKT

🏠 BILDplus NEWS POLITIK GELD UNTERHALTUNG SPORT BUNDESLIGA LIFESTYLE RATGEBER

20.06.2016 - 12:58 UHR HOME > POLITIK > AUSLAND > SYRIEN-KRISE > GESPRÄCHE SYRIENS ASSAD: HABT IHR DIESE BILDER SCHON VERGESSEN?

GESPRÄCHE MIT TEUFEL ASSAD

# Habt ihr diese Bilder schon vergessen?

👍 430

👍 Empfehlen

🔗 Teilen

🐦 Twittern



Duma bei Damaskus: Eines der Kinder, die Opfer eines Assad-Luftangriffs am 16. Juni wurden  
 Foto: AFP

**Teilen**
 **Twittern**
 **G+**
 **t**
 **p**





## Case Study 2

Bild.de Coverage on Syrian War

- **Art 4 (1), S. 1 Nr. 8 JMStV**
  - “Without prejudice to any liability under the German Criminal Code, content is illegal if it violates human dignity, especially by presenting persons who are dying or who are or were exposed to serious physical or mental suffering **while reporting actual facts without any justified public interest in such form of presentation or reporting being given.**”

## Case Study 2 – Conflicting Rights

Bild.de Coverage on Syrian War

|  <b>Human Dignity</b>  |  <b>Freedom of Press</b>  |
|---|--|
| <ul style="list-style-type: none"> <li>▪ Photos violate human dignity</li> <li>▪ Problematic: Publication of not-pixelated photos of children being dead or seriously suffering; the suffering and the death of the children is publicly displayed and they are thereby degraded to mere objects of curiosity</li> <li>▪ Another way of reporting would have been possible without diminishing news value (for example by pixelating children's faces)</li> </ul> | <ul style="list-style-type: none"> <li>▪ Justified public interest in such form of presentation or reporting is given</li> <li>▪ Decision of KJM is “horrible” and “wrong”, we must raise the world's awareness for the cruelty of Assad's war</li> <li>▪ Aim of the photos is to trigger outcry and indignation</li> <li>▪ Not the photos violate human dignity, but Assad's cruel warfare</li> </ul> |

## Conclusion and Prospects

# Conclusion and Prospects

- In general: The system works well.
- **HOWEVER: New Challenges!**

The image shows three overlapping news articles. The leftmost article is from ZEIT ONLINE, titled "Hat Facebook H begangen?" (Did Facebook do it?). The middle article is from The New York Times, titled "Cambridge Analytica Suspends C.E.O. Amid Scandal". The rightmost article is from CNBC, titled "Facebook and Cambridge Analytica whistleblower: Trump election made me speak out".

Datenskandal

## Hat Facebook H begangen?

Der Facebook-Skandal geht weit über die Grenzen der USA hinaus, sagt Silicon-Valley-Insider Hugh D. Die Lösung könnte nur Europa sein.

Interview: Christoph Drösser, Sachverständigenrat

23. März 2018, 11:44 Uhr / 363 Kommentare



EUROPE

## Cambridge Analytica Suspends C.E.O. Amid Scandal

By MATTHEW ROSENBERG MARCH 20, 2018



Alexander Nix, the chief executive of the London-based political consulting firm Cambridge Analytica, left his offices through the back door on Tuesday. Facundo Arrizabalaga/EPA, via Shutterstock

SEARCH: Quotes, News & Video

HOME INTL NEWS MARKETS INVESTING TECH MAKE IT VIDEO SHOWS MORE

SUBSCRIBE PRO LIVE TV WATCHLIST

TECH

TECH MOBILE SOCIAL MEDIA ENTERPRISE CYBERSECURITY TECH GUIDE

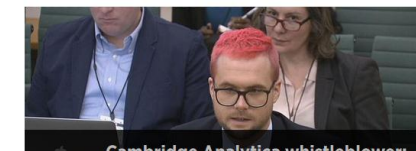
## Facebook and Cambridge Analytica whistleblower: Trump election made me speak out



- Christopher Wylie, the whistleblower behind the Facebook and Cambridge Analytica data scandal, appeared in front of U.K. lawmakers on Tuesday.
- It comes after explosive reports last week that a quiz app harvested 50 million Facebook profiles for data which were then sent over to Cambridge Analytica.
- Wylie was the man who revealed to the New York Times and U.K.'s Observer newspaper the practices of Cambridge Analytica and the data harvesting that took place.
- He spoke to members of parliament on the Digital, Culture, Media and Sport (DCMS) Committee, chaired by lawmaker Damian Collins.

Arjun Kharpal | @ArjunKharpal  
Published 5 Hours Ago | Updated 1 Hour Ago

CNBC



MOST POPULAR: TECH

1. How to download a copy of everything Facebook knows about you

## Legal Frameworks ... in progress

- Audiovisual Media Services Directive (AVMSD)
  - EU-wide coordination of national legislation on all audiovisual media, both traditional TV broadcasts and on-demand services
- European Regulators Group for Audiovisual Media Services (ERGA)
  - Advises European Commission on the implementation of the European Union's Audiovisual Media Services Directive (AVMSD)
- Network Enforcement Act (NetzDG) *German law 1 oct 2017*
  - Combat hate speech and fake news
- General Data Protection Regulation (GDPR)
  - Replaces the Data Protection Directive 95/46/EC
  - Designed to **harmonize** data privacy laws across Europe, to **protect and empower** all EU citizens data privacy and to **reshape** the way organizations across the region approach data privacy

## What We Need...

- Regulation of media intermediaries, such as social networks and search engines?
  - State Media Authorities are currently assessing regulation options
  - Preliminary results recommend developing a new set of rules which:
    - establishes a code of conduct for media-intermediaries
    - while guaranteeing diversity

### **Some thoughts for the future** (Economis, “Epic Fail”, March 24<sup>th</sup> 2018)

- Tech firms need to open up to outsiders, safely and methodically
- Create an industry ombudsman: call it the Data Rights Board
- Set and enforce the rules by which accredited independent researchers look inside the platforms without threatening user’s privacy –software -
- Board could act as a referee for complaints
- How does micro-targeted skew pol. campaigns?
- What biases infect facial-recognition algorithms?
- GDPR gives users more power to opt out of being tracked online



# Thank you very much for your attention!

**Dr Joachim Kind**

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